

Inspector General

United States Department *of* Defense



National Geospatial-Intelligence Agency Did Not
Comply With Base Realignment and Closure
Legislation

Report Documentation Page			Form Approved OMB No. 0704-0188	
<p>Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p>				
1. REPORT DATE 13 AUG 2013	2. REPORT TYPE	3. DATES COVERED 00-00-2013 to 00-00-2013		
4. TITLE AND SUBTITLE National Geospatial-Intelligence Agency Did Not Comply With Base Realignment and Closure Legislation			5a. CONTRACT NUMBER	
			5b. GRANT NUMBER	
			5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)			5d. PROJECT NUMBER	
			5e. TASK NUMBER	
			5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Department of Defense Office of Inspector General, 4800 Mark Center Drive, Alexandria, VA, 22350			8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)			10. SPONSOR/MONITOR'S ACRONYM(S)	
			11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited				
13. SUPPLEMENTARY NOTES				
14. ABSTRACT				
15. SUBJECT TERMS				
16. SECURITY CLASSIFICATION OF: a. REPORT b. ABSTRACT c. THIS PAGE unclassified unclassified unclassified			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 34
				19a. NAME OF RESPONSIBLE PERSON

Additional Copies

To obtain additional copies of this report, visit the Department of Defense Inspector General website at <http://www.dodig.mil/pubs/index.cfm>, or contact the Secondary Reports Distribution Unit at auditnet@dodig.mil.

Suggestions for Audits

To suggest or request audits, contact the Office of the Deputy Inspector General for Auditing at auditnet@dodig.mil or by mail:

Department of Defense Office of Inspector General
Office of the Deputy Inspector General for Auditing,
Defense Payments and Accounting Operations
ATTN: Audit Suggestions/13F25-04
4800 Mark Center Drive
Alexandria, VA 22350-1500



Acronyms and Abbreviations

BRAC	Base Realignment and Closure
CFR	Code of Federal Regulations
NCE	National Geospatial-Intelligence Agency Campus East
NGA	National Geospatial-Intelligence Agency
OGC	Office of the General Counsel
USACE	U.S. Army Corps of Engineers
USD(AT&L)	Under Secretary of Defense for Acquisition, Technology, and Logistics



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

August 13, 2013

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR
ACQUISITION, TECHNOLOGY, AND LOGISTICS
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY**

SUBJECT: National Geospatial-Intelligence Agency Did Not Comply With Base Realignment and Closure Legislation (Report No. DODIG-2013-116)

We are providing this report for review and comment. We conducted this audit in response to a congressional request. The National Geospatial-Intelligence Agency could have minimized or avoided \$11.4 million in total costs if it had incorporated a site scheduled for closure into the original plans for the National Geospatial-Intelligence Agency Campus East as required by Base Realignment and Closure legislation. We considered management comments from the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director, National Geospatial-Intelligence Agency on a draft of this report when preparing the final report.

DoD Directive 7650.3 requires that recommendations be resolved promptly. The Director, National Geospatial-Intelligence Agency, responded to Recommendation 1.a and 1.b. The comments on Recommendation 1.a were not responsive. Therefore, we request additional comments on this recommendation by September 12, 2013. The comments on Recommendation 1.b were responsive, and we do not require additional comments. The Acting Deputy Under Secretary of Defense (Installations and Environment) responded to Recommendation 2 for the Under Secretary of Defense for Acquisition, Technology, and Logistics. The comments on Recommendation 2 were not responsive. Therefore, we request additional comments on this recommendation by September 12, 2013.

If possible, send a Microsoft Word (.doc) file and portable document format (.pdf) file containing your comments to [aiddpao@dodig.mil](mailto:auddpao@dodig.mil). Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 601-5945 (DSN 664-5945).

Lorin T. Venable
Assistant Inspector General
Financial Management and Reporting



Results in Brief: National Geospatial-Intelligence Agency Did Not Comply With Base Realignment and Closure Legislation

What We Did

We conducted this audit in response to a request from then Senator Jim Webb. We determined whether the National Geospatial-Intelligence Agency (NGA) complied with Public Law 101-510, "Defense Base Closure and Realignment Act of 1990," as amended. Specifically, we determined whether NGA complied with Base Realignment and Closure (BRAC)

Recommendation 168, "National Geospatial-Intelligence Agency Activities," which required NGA to close the following sites and relocate all NGA functions to the new facility at Fort Belvoir, Virginia:

- Dalecarlia and Sumner sites, Bethesda, Maryland;
- Reston 1, 2 and 3, Reston, Virginia;
- Newington buildings 8510, 8520, and 8530, Newington, Virginia; and
- Building 213, South East Federal Center, Washington, D.C.

What We Found

NGA did not comply with BRAC legislation. Specifically, NGA:

- continued operations and made modifications to Newington 8520; and
- did not move all functions to the NGA Campus East (NCE) at Fort Belvoir, Virginia, as required.

This occurred because instead of implementing BRAC legislation requirements, NGA officials developed a flawed rationale to justify continuing operations at the Newington site. In addition, the Under Secretary of Defense, Acquisition, Technology, and Logistics (USD[AT&L]) officials who were responsible

for overseeing the BRAC planning process did not promptly determine that NGA's actions were not compliant with the BRAC legislation. NGA could have minimized or avoided \$11.4 million in total costs if they had incorporated the Newington site into the original plans for the NCE as required by BRAC legislation.

What We Recommend

USD(AT&L) should monitor NGA's plans to relocate functions remaining at NGA's Newington site to NCE, as required by the BRAC legislation.

In addition, the Director, NGA, should:

- initiate negotiations with the contractor at the Newington site to ensure that NGA meets the BRAC's statutory intent of eliminating excess physical capacity, and
- review the BRAC decisions made by NGA personnel and take administrative action as appropriate.

Management Comments and Our Response

We received comments from the Acting Deputy Under Secretary of Defense (Installations and Environment) and the Director, NGA, that were not fully responsive to the recommendations. Therefore, additional comments are required. Please see the recommendations table on the back of this page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Under Secretary of Defense for Acquisition, Technology, and Logistics	2	
Director, National Geospatial-Intelligence Agency	1.a	1.b

Please provide comments by September 12, 2013.

Table of Contents

Introduction	1
Objective	1
Background	1
Review of Internal Controls	3
Finding. NGA Wasted Millions in DoD Funds by Not Complying With Base Realignment and Closure Legislation	4
Planning to Continue Newington Site Operations	4
Modifying a Building Scheduled for Closure	5
Relocating the Integrated Support Facility	6
Additional Costs to Close the Newington Site	7
Actions of Officials	9
Conclusion	10
Management Comments on the Report and Our Response	11
Recommendations, Management Comments and Our Response	12
Appendix. Scope and Methodology	14
NGA Timeliness and Unresponsiveness	14
Use of Computer-Processed Data	15
Prior Coverage	15
Management Comments	16
Under Secretary of Defense for Acquisition, Technology, and Logistics	16
National Geospatial-Intelligence Agency	18

Introduction

Objective

Our objective was to determine whether the National Geospatial-Intelligence Agency (NGA) complied with Public Law 101-510, “Defense Base Closure and Realignment Act of 1990,” as amended. Specifically, we determined whether NGA complied with Base Realignment and Closure (BRAC) Recommendation 168, “National Geospatial-Intelligence Agency Activities.” We conducted this audit in response to a request from then Senator Jim Webb, who asked that we review the NGA’s compliance with the BRAC legislation. See the appendix of this report for a discussion of the scope and methodology and for prior audit coverage.

Background

National Geospatial-Intelligence Agency

NGA is a member of the U.S. Intelligence Community and a DoD combat support agency. The NGA mission is to provide timely, relevant, and accurate geospatial intelligence in support of national security objectives. NGA is headquartered at its NGA Campus East (NCE) at Fort Belvoir, Virginia. Approximately two-thirds of the NGA workforce is assigned to the NCE.

Figure 1 presents an aerial view of the completed NCE.

Figure 1. NGA Campus East



Source: U.S. Army Corps of Engineers

Public Law No. 101-510

The purpose of BRAC is to reorganize installation infrastructure to support the armed forces more efficiently and effectively, increase operational readiness, and facilitate new ways of doing business. BRAC-directed activities seek to eliminate excess physical capacity and to maximize operational capability.

Public Law No. 101-510, “Defense Base Closure and Realignment Act of 1990,” as amended, required the Secretary of Defense to prepare a list of recommended military installations inside the United States to be closed or realigned. Furthermore, the public law requires the Secretary of Defense to publish the list of recommended closures and realignments in the Federal Register; transmit the list to the congressional defense committees; and transmit the list to the 2005 BRAC Commission. After receiving the Secretary’s list, the 2005 BRAC Commission was responsible for reviewing the Secretary’s BRAC recommendations and compiling its own BRAC recommendations in a report for the President and Congress. On November 9, 2005, the recommendations in the 2005 BRAC Commission Final Report became law.

BRAC Recommendation 168

The 2005 BRAC Commission Final Report included 182 recommendations.

Recommendation 168, “National Geospatial Intelligence Activities,” required NGA to:

...close National Geospatial-Intelligence Agency (NGA) Dalecarlia and Sumner sites, Bethesda, MD; Reston 1, 2 and 3, leased installations in Reston, VA; Newington buildings 8510, 8520, and 8530, Newington, VA; and Building 213, a leased installation at the South East Federal Center, Washington, DC. Relocate all functions to a new facility at Fort Belvoir, VA. Realign the National Reconnaissance Office facility, Westfields, VA, by relocating all NGA functions to a new facility at the Fort Belvoir, VA. Consolidate all NGA National Geospatial-Intelligence College functions on Fort Belvoir into the new facility at Fort Belvoir, VA.

Public Law No. 101-510 mandated that NGA complete these actions by September 15, 2011.

BRAC Definition of Close or Closure

BRAC law defines close or closure as an action in which all missions or activities of a certain installation have ceased or have been relocated. All military, civilian, and contractor personnel positions must either be eliminated or relocated. Exceptions to this are personnel required for caretaking, conducting any ongoing environmental cleanup and disposal of the base, or remaining in authorized enclaves.

Requirement to Submit Business Plans

Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) Memorandum, “BRAC 2005 Implementation Planning,” September 21, 2005, established the use of business plans as the foundation for the complex program management necessary to ensure that BRAC recommendations were implemented efficiently and effectively. Secretary of Defense Memorandum, “BRAC 2005 Updated Business Plans,” June 22, 2007, required agencies to submit business plans to USD(AT&L) by the first workday of February and August, annually, until the completion of BRAC activities. Business plans provided important implementation details regarding the actions, timing, and resources necessary to implement each BRAC recommendation. Agencies were required to demonstrate in their business plans how implementation of the plan satisfied the legal requirements for a BRAC recommendation.

Newington Functions

Integrated Test Facility

The Integrated Test Facility is a contractor-owned and -operated test facility for NGA. The mission of the Integrated Test Facility is to conduct independent testing and demonstration of hardware and software before deployment. The Integrated Test Facility was located in Newington 8510, 8520, and a portion of 8530.

Integrated Support Facility

The Integrated Support Facility is a contractor-owned and -operated facility that provides support to NGA systems in the Washington, D.C., area. The Integrated Support Facility is located in a portion of Newington 8530.

Review of Internal Controls

We determined that an internal control weakness in the BRAC process existed as defined by DoD Instruction 5010.40, “Managers’ Internal Control Program (MICP) Procedures,” July 29, 2010. Specifically, USD(AT&L) officials responsible for determining that BRAC planning documents complied with law did not promptly determine that NGA’s documents were not compliant with the BRAC legislation. We will provide a copy of the report to the senior officials responsible for internal controls in the USD(AT&L).

Finding. NGA Wasted Millions in DoD Funds by Not Complying With Base Realignment and Closure Legislation

NGA officials did not comply with the BRAC recommendation to close the Newington site and relocate all functions to NCE at Fort Belvoir, Virginia. Instead, NGA continued to use the Newington site, even obligating \$721,406 for modifications. This occurred because instead of implementing BRAC legislation requirements, NGA officials from multiple offices throughout the agency developed a flawed rationale to justify continuing operations at the Newington site. In addition, oversight officials from USD(AT&L) did not promptly determine that NGA's actions were not compliant with the BRAC legislation. As a result, NGA made \$8.9 million in design and construction changes to the NCE to accommodate its Newington site and wasted \$1.7 million in DoD funds restoring the site to its original condition. Furthermore, NGA did not meet BRAC's statutory intent of eliminating excess physical capacity.

Planning to Continue Newington Site Operations

NGA Business Plans

In May 2006, NGA submitted its baseline business plan, which complied with BRAC Recommendation 168. The baseline business plan stated that NGA would move all functions from Newington, Virginia, to the NCE. However, in the August 2007 submission,¹ NGA personnel altered the language in its business plan to indicate that NGA planned to move only Government personnel to the NCE and that it would contract out the functions located at the Newington site. NGA personnel stated that by contracting out functions, NGA could follow the "spirit" of BRAC while also being able to leave functions at the Newington site. In January 2008, NGA again altered language in its business plan to state:

Because NGA lacks the authority to close the privately owned Newington Buildings, coupled with continuity of operations concerns, NGA will move government employees to the Fort Belvoir facility, terminate the leases for the buildings and contract out the functions that occurred in the buildings while managing the functions from the Fort Belvoir facility.

NGA's August 2007 and January 2008 business plan submissions did not meet the BRAC definition of closure. Therefore, the business plans did not satisfy NGA's legal requirements under BRAC. The language in NGA's biannual business plans remained unchanged through the March 2010 submission.

Review of NGA Business Plans

In April 2010, the DoD Office of General Counsel (OGC) issued an opinion that the changes to the business plan were unlawful, and NGA would have to move the functions

¹ NGA deferred its August 2007 business plan submission to September 2007.

at its Newington site to the NCE to comply with the BRAC legislation. In addition, USD(AT&L) issued a memorandum in May 2010 informing NGA that its business plan did not comply with BRAC legislation. In July 2010, as a result of the DoD OGC opinion and the USD(AT&L) memorandum, NGA updated its business plan to state that 33 of 36 functions from the Newington site would move to the NCE by the BRAC deadline and that the 3 remaining functions would be phased out and retired in place by September 2012.

Modifying a Building Scheduled for Closure

Code of Federal Regulations

The Code of Federal Regulations (CFR), Title 32, “National Defense,” Part 174, “Revitalizing Base Closure Communities and Addressing Impacts of Realignment,” Subpart F, “Maintenance and Repair” provides maintenance procedures to preserve and protect facilities located on installations being closed as part of BRAC. Specifically, 32 CFR § 174.14 states that “maintenance for facilities recommended for closure by BRAC shall not require any property improvements, including construction, alteration, or demolition, except when the demolition is required for health, safety, or environmental purposes, or is economically justified in lieu of continued maintenance expenditures.”

Facility Modification

NGA obligated \$721,406 for facility modification of the Newington site, even though BRAC legislation designated the site for closure. Specifically, NGA issued an undefinitized change order modification to start immediate demolition work for one of the buildings at the Newington site.

NGA personnel stated that the Newington site was being prepared for renovations. After the issuance of the DoD OGC opinion and the USD(AT&L) memorandum, NGA was forced to stop work on the renovation effort. Under the terms of the contract for the Newington site, the Government is responsible for restoring the site to its pre-lease condition. Therefore, NGA was responsible for paying for the restoration efforts required by the property owner as a result of the demolition.

By not complying with the CFR requirements, NGA wasted \$2.4 million.

The restoration costs for the building that was prepared for renovations were \$1.7 million. There were no restoration costs incurred for the other buildings at the Newington site. By not complying with the CFR requirements, NGA wasted \$2.4 million on the demolition and restoration of the Newington site.

Relocating the Integrated Support Facility

Discovery of the Integrated Support Facility

In September 2011, the Integrated Test Facility was relocated from the Newington site to the NCE. However, the Newington site was not completely vacated. In February 2012, the General Counsel, NGA, issued a legal opinion on the status of functions remaining at the Newington site, stating that during decommissioning, it was “discovered” that one suite, the Integrated Support Facility, was occupied by contractor personnel performing work for NGA. The General Counsel, NGA, argued that the “discovered” function remaining at the Newington site was not an NGA function, but a contractor function, and therefore was not covered by the BRAC legislation. Moreover, she stated that no Government personnel were at the Integrated Support Facility; no NGA production equipment was involved in the actions there; NGA was not responsible for any facility operations or security costs; and the contractor personnel were working under completion contracts.² She therefore concluded that the Integrated Support Facility was not within the scope of the BRAC legislation.

It was ‘discovered’ that one suite, the Integrated Support Facility, was occupied by contractor personnel.

BRAC Requirements

BRAC Recommendation 168 specifically states that NGA must relocate *all* Newington functions to the NCE. The BRAC legislation does not provide exceptions for any of the arguments cited in the General Counsel, NGA, opinion. In addition, the data supporting the BRAC recommendation refers to the Newington site as a whole. The law makes no

The BRAC legislation does not provide exceptions for any of the arguments cited in the General Counsel, NGA, opinion.

distinctions among the functions performed at the site. The General Counsel, NGA, acknowledged that the Integrated Support Facility has been at the Newington site since 1999. Therefore, the facility was included within the scope of the 2005 BRAC recommendation. USD(AT&L)’s May 2010

memorandum also stated *all functions*, including the Integrated Test Facility, must relocate from the Newington lease sites.

Integrated Support Facility Remains at Newington

The General Counsel, NGA, stated in her opinion that the location of the Integrated Support Facility was selected because of its proximity to the Integrated Test Facility. However, the DoD OGC opined that the Integrated Test Facility was required to relocate to the NCE because the Secretary of Defense’s intent was to consolidate “activities now occupying small government facilities and privately owned leased space to a secure Department of Defense owned location, reducing excess capacity and increasing overall military value.”

²NGA personnel stated that a completion contract is a contract in which the scope of work is a definite goal or target with a specified end product.

When opining on the relocation of the Integrated Test Facility, DoD OGC reviewed the data supporting the BRAC recommendation and considered the “Miscellaneous Recurring Savings” derived from “Information Technology Infrastructure efficiencies... the termination of lease costs..., and cessation of Facility Operations and Security costs.” Using the logic applied by DoD OGC, the Integrated Support Facility must also relocate for DoD to fully realize the savings.

Despite the lack of definitive support to show that the Integrated Support Facility was exempt from the BRAC legislation and its own opinion on the Integrated Test Facility, DoD OGC deferred to the General Counsel, NGA’s opinion on the Integrated Support Facility. DoD OGC personnel stated that it deferred to the General Counsel, NGA’s opinion because they did not have the technical expertise to opine on the Integrated Support Facility.

In addition, NGA moved three functions from its Integrated Test Facility to the Integrated Support Facility rather than phasing out or retiring the functions as stated in its July 2010 business plan. In December 2012, the DoD OIG briefed NGA personnel, including the Deputy Director, that the three functions were not relocated as required by BRAC legislation. In February 2013, the Deputy Director, NGA, acknowledged that moving the functions to the Integrated Support Facility was not compliant with BRAC legislation. He directed that the functions be decommissioned as soon as possible and has initiated an inquiry into the action. The functions were moved to the NCE in March 2013, almost 6 months after the BRAC deadline. Furthermore, USD(AT&L) was not notified of the status of these actions through NGA’s business plans as required.

We recognize that NGA does not directly hold the lease with the property owner of the Newington site. However, as long as NGA contractors remain at a site that was designated for closure, NGA will continue to incur indirect costs associated with the lease, operations, and security of the site through payments on the contracts. Allowing the Integrated Support Facility to remain at the Newington site eliminates the efficiencies to be gained from the consolidation of NGA activities at the NCE. The Director, NGA, should initiate negotiations with the contractor at the Newington site to ensure that the BRAC legislation’s statutory intent of eliminating excess physical capacity is met.

Additional Costs to Close the Newington Site

NGA made \$436,170 in design changes and \$8.5 million in construction changes to the NCE to accommodate the Newington site. The changes included modifying wall partitions, providing layouts of interior furnishings, and developing electrical and mechanical programs to accommodate user-defined needs. In addition, in September 2010, NGA requested \$24 million in National Intelligence Program funds from the Director of National Intelligence to fund the “unanticipated requirement” to relocate the Integrated Test Facility at the Newington site. The Director of National Intelligence responded that he would consider the “unfunded requirement” as part of the FY 2012 National Intelligence Program budget.

Additional Lease Payments at the Newington Site

NGA renegotiated the lease for the Newington site following the implementation of the BRAC legislation.³ The Newington lease for the Integrated Test Facility was extended to September 30, 2014, and the lease for the Integrated Support Facility was extended to December 31, 2014. During FY 2012, NGA paid \$202,101 per month for the Newington site. Of the \$202,101 in lease payments:

- \$30,849 per month is attributed to the space being occupied by the Integrated Support Facility contractors, and
- \$171,251 per month is attributed to the Integrated Test Facility buildings that are being decommissioned.⁴

NGA was required to move out of the Newington site by September 15, 2011. We requested a status of the Newington disposition in August 2012. In April 2013, NGA stated that it finalized the walkaway costs for the facility. The walkaway costs included an additional \$4.6 million for rent and \$81,986 for utilities in the Integrated Test Facility portion of the Newington site. As of April 2013, NGA is still paying the monthly lease expense for the Integrated Support Facility portion of the Newington site.

Determining NGA's Business Plan Did Not Comply With BRAC Legislation

USD(AT&L) personnel were responsible for reviewing all business plan submissions and identifying business plan actions that did not comply with the BRAC legislation. Between August 2007 and May 2010, USD(AT&L) did not determine that NGA's business plans did not meet the requirements of BRAC legislation. USD(AT&L) personnel acknowledged that they should have reviewed the business plans more thoroughly. However, they stated that the large scope of their responsibilities prevented them from adequately reviewing all biannual business plan submissions.

If USD(AT&L) had determined in a timely manner that NGA's business plan was not compliant with the BRAC legislation, NGA may not have been able to pursue its plan to

continue operations at the Newington site.

USD(AT&L) officials attempted to correct the lapse in their oversight responsibilities by issuing the May 2010 memorandum. However, the ultimate responsibility to demonstrate in its business plans

how implementation of the plan satisfied the legal requirements of the BRAC recommendation was NGA's. USD(AT&L) should monitor NGA's plans to relocate functions remaining at NGA's Newington Site to the NCE as required by the BRAC legislation.

³ The Integrated Test Facility portion of the lease was renegotiated in February 2009 and the Integrated Support Facility portion of the lease was renegotiated in March 2011.

⁴ The amounts of the Integrated Test Facility and Integrated Support Facility lease payment do not sum to the total lease payment because of rounding.

Actions of Officials

National Geospatial-Intelligence Agency

NGA personnel stated that they did not intend to circumvent the BRAC legislation and planned to continue operations at the Newington site because USD(AT&L) did not provide a “single dissenting comment [on the NGA business plans] between 2007 and 2010.” However, in January 2007, the General Counsel, NGA, notified NGA personnel that the DoD OGC issued a verbal opinion cautioning NGA against “outsourcing” the Integrated Test Facility function. The General Counsel, NGA, stated that she could not provide “a definitive favorable legal decision” regarding NGA’s plan for the Newington site because of the “clear [BRAC] commission report language” and the DoD OGC warning that the “outsourcing” plan was contrary to DoD’s position. She also informed NGA officials that “there are no criminal penalties” for not complying with the BRAC legislation but warned that “there could be significant political and fiscal fallout.”

Regardless, instead of implementing BRAC legislation requirements, NGA officials from multiple offices throughout the agency jointly developed a flawed rationale to support NGA’s intent to leave the Newington site open. Specifically, an official wrote that what NGA did with respect to its Newington site was “our business.” The General Counsel and Deputy General Counsel, NGA; the Director, NGA Campus East Program Office; the Director, NGA Securities and Installation Operations; and the Director, NGA Acquisition Directorate moved forward with the plan to leave the Newington site open, despite being advised that this action did not comply with BRAC legislation.

In November 2007, NGA personnel determined that the best approach for NGA to “seek exception to the BRAC direction for the closure of the Newington site” was to include the Integrated Test Facility strategy in the next NCE Update to the BRAC on February 1, 2008. They further stated that “this was in lieu of directly asking the BRAC for approval.” NGA personnel agreed that 1 month was an adequate timeframe for USD(AT&L) to respond with any objections to the plan.

As of December 2012, an NGA contractor continued to operate at the Newington site. The Deputy Director, NGA, stated that NGA could not force the contractor to vacate the Newington site. However, NGA required personnel from the same contractor to move to NCE as part of the Integrated Test Facility relocation. The Director, NGA, should review the involvement of NGA personnel in the BRAC decision making process and take administrative action as appropriate.

Director of National Intelligence

From September 2001 to June 2006, the current Director of National Intelligence was the Director, NGA. During this period, NGA had a representative on the group that developed the BRAC recommendations for the Intelligence Community. In May 2005, in anticipation of the BRAC recommendations becoming law, NGA issued a press release that stated, “BRAC was designed to achieve several goals: eliminate excess infrastructure...and realize significant savings in support of transforming the Department of Defense” In the press release, NGA stated it would close all its facilities in Maryland,

Virginia, and Washington, D.C., and move them to the NCE. These recommendations became law in November 2005. The former Director, NGA, issued a memorandum, “Fort Belvoir Planning Data,” April 28, 2006, which outlined requirements for the NCE.⁵ Newington was included in the planning estimates. In addition, the memorandum stated, “Consolidation of NGA Facilities at Fort Belvoir is a critical initiative that will help transform our agency to better serve our customers.”

In April 2007, the former Director, NGA, was appointed Under Secretary of Defense for Intelligence. In August 2007, NGA issued a memorandum to the Under Secretary of Defense for Intelligence addressing the “commercially leased buildings that house NGA’s Integrated Test Facility and were included in the BRAC closure plan.” In the memorandum NGA stated, “NGA’s deployment planning has led us to determine that the best approach to disposition of the Integrated Test Facility is to contract out its operations at the current facility while moving its government employees to the new campus. We believe this approach allows NGA to comply with the BRAC legislation...” In April and May 2010, respectively, DoD OGC and USD(AT&L) notified NGA that its plans for the Newington site did not comply with BRAC legislation.

On August 9, 2010, the former Director, NGA, and former Under Secretary of Defense for Intelligence was appointed to his current position as the Director of National Intelligence. In September 2010, just 1 month after the appointment, NGA requested \$24 million in National Intelligence Program funds from the Director of National Intelligence to fund the “unanticipated requirement” to relocate the Integrated Test Facility at the Newington site. The Director of National Intelligence responded that he would consider the “unfunded requirement” as part of the FY 2012 National Intelligence Program budget.

NGA and the Director of National Intelligence should not have categorized the \$24 million National Intelligence Program budget funding request as “unanticipated,” because both should have been aware of the legislative requirement to close the Newington site.

Conclusion

NGA obligated \$721,406 for modifications to the Newington site, even though the BRAC legislation designated the site for closure. NGA must now pay \$1.7 million in costs associated with restoring the Newington site to its original condition.

In addition, NGA made \$436,170 in design changes and \$8.5 million in construction changes to the NCE to accommodate the Newington site. The \$11.4 million in total costs could have been minimized or avoided if NGA had incorporated the Newington site into its original plans for the NCE as required by the BRAC legislation. Furthermore, NGA requested an additional \$24 million of National Intelligence Program Funding for the “unanticipated requirement” to move the Integrated Test Facility at the Newington location.

⁵ The former Deputy Director, NGA, signed the memorandum on behalf of the former Director, NGA.

Despite the additional costs incurred, NGA continued to occupy and incur obligations for the Newington site through March 2013 and spent \$4.6 million in lease and \$81,986 in utility payments to terminate the contract. In a time of proposed cuts to the DoD budget, NGA needs to exhibit better stewardship.

Management Comments on the Report and Our Response

The Director, NGA, did not agree with the overall conclusions presented in this report. She acknowledged that NGA erred in allowing three functions to move within the Newington site instead of relocating to the NCE. However, she stated that NGA acted in good faith to comply with BRAC legislation and provided her reasons for disagreeing with our conclusions. She stated that the report did not contain a number of mitigating and clarifying facts and drew an overall conclusion that was not accurate. She argued that NGA:

- submitted updated business plans for executing the BRAC requirements through the required reporting process;
- received USD(AT&L) approval for its updated business plans;
- lacked the authority to close the privately owned Newington site;
- determined that the ISF was not an NGA function and issued a legal opinion on its determination; and
- complied with the provisions of BRAC legislation

The Director, NGA's comments were largely a restatement of the information described in the body of this report. Despite warnings issued by General Counsel, NGA and DoD OGC, NGA proceeded with its plan to continue operations at the Newington site. NGA inappropriately determined that the best approach for NGA to "seek exception to the BRAC direction for the closure of the Newington site" was to include the Integrated Test Facility strategy in its business plans. Despite USD(AT&L)'s approval of NGA's business plans, National Geospatial-Intelligence Agency was responsible for ensuring that its business plans satisfied legislative requirements.

Instead of closing the Newington site, NGA initiated plans to modify the Newington site. The Director, NGA, argued that NGA planned to renovate the location prior to the issuance of BRAC legislation. However, NGA signed the contract for the Newington renovation in December 2008. BRAC legislation went into effect in September 2005.

BRAC law defines close or closure as an action in which all missions or activities of a certain installation have ceased or have been relocated. BRAC recommendation 168 specifically requires NGA to cease operations in Newington buildings 8510, 8520, and 8530 and move all functions to the NCE. The recommendation clearly did not mandate that no other tenants could occupy the building after NGA ceased operations, as implied in the comments from the Director, NGA. She also implied that the contractor-operated ISF was exempt from the requirement to relocate, although BRAC legislation provides no

exemptions for contractor personnel. The General Counsel, NGA's legal opinion ignores the requirement for contractor personnel to relocate. The actions of NGA senior officials, including the Deputy Director, NGA, and the General Counsel, NGA, demonstrated a disregard for BRAC legislative requirements.

Recommendations, Management Comments, and Our Response

1. We recommend that the Director, National Geospatial-Intelligence Agency:

- a. Initiate negotiations with the contractor at the Newington site to ensure that the Base Realignment and Closure's statutory intent of eliminating excess physical capacity is met.**

NGA Comments

The Director, National Geospatial-Intelligence Agency disagreed with our recommendation to initiate contractor negotiations. She stated that the National Geospatial-Intelligence Agency did not have the legal authority to close the remainder of the Newington site.

Our Response

The comments from the Director, National Geospatial-Intelligence Agency were not responsive. As discussed in this report, Base Realignment and Closure legislation required the National Geospatial-Intelligence Agency to close three buildings at the Newington site. Contractor personnel performing work for the National Geospatial-Intelligence Agency continue to work in Newington 8530. Base Realignment and Closure legislation defines close or closure as an action in which *all* missions or activities of a certain installation have ceased or have been relocated. All military, civilian, and *contractor* personnel positions must either be eliminated or relocated. We request that the Director, National Geospatial-Intelligence Agency reconsider her position on the Newington site and provide comments on this final report detailing how the agency plans to fully implement the closure requirement. There is no exception for contractor operations executed to accomplish NGA's mission. Therefore, the ISF function should have been moved to the NCE to comply with BRAC legislation.

- b. Review the Base Realignment and Closure decisions made by National Geospatial-Intelligence Agency personnel and take administrative actions as appropriate.**

NGA Comments

The Director, National Geospatial-Intelligence Agency agreed with our recommendation to review the Base Realignment and Closure decisions made by National Geospatial-Intelligence Agency personnel and stated that the agency would take administrative actions, as appropriate.

Our Response

The comments of the Director, National Geospatial-Intelligence Agency were responsive. We require no additional comments.

- 2. We recommend that the Under Secretary of Defense for Acquisition, Technology, and Logistics monitor the National Geospatial-Intelligence Agency's plans to relocate functions remaining at National Geospatial-Intelligence Agency's Newington site to the Campus East, as required by Base Realignment and Closure legislation.**

USD(AT&L) Comments

The Acting Deputy Under Secretary of Defense (Installations and Environment)⁶ disagreed with our finding. Specifically, he stated that the General Counsel, NGA appropriately concluded that the relocation of the ISF function was outside the scope of the BRAC recommendation, and as such was not legally required in order to complete the BRAC recommendation. As a result, he stated that he did not agree with our recommendation and would not monitor the National Geospatial-Intelligence Agency's plans to relocate the functions remaining at the Newington site.

Our Response

Comments from the Under Secretary of Defense for Acquisition, Technology, and Logistics were not responsive. BRAC legislation required NGA to relocate all functions and does not provide an exception for contractor functions located at NGA facilities. Thus, the NGA legal opinion is flawed. NGA's mishandling of the relocation of ITF function and NGA's evidenced failure to fully comply with BRAC legislation should provide the Under Secretary of Defense for Acquisition, Technology and Logistics with an incentive to monitor NGA's relocation of its remaining operations. Based on the information contained in our response to the Director, National Geospatial-Intelligence Agency's comments, we request that the Under Secretary of Defense for Acquisition, Technology, and Logistics reconsider his position on the Newington site. We also request that he provide comments on this final report describing how his office plans to monitor the National Geospatial-Intelligence Agency's relocation of the remaining Newington functions.

⁶ The Acting Deputy Under Secretary of Defense (Installations and Environment) responded on behalf of USD(AT&L) as the Deputy Under Secretary of Defense (Installations and Environment) reports to USD(AT&L).

Appendix. Scope and Methodology

We conducted this performance audit from July 2011 through March 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To perform the audit, we obtained evidence through the following actions.

- We reviewed public laws and DoD guidance related to BRAC.
- We interviewed NGA, USACE, DoD OGC, and USD(AT&L) personnel to gain an understanding of NGA's BRAC process.
- We conducted walkthroughs of the NCE and NGA Newington sites.
- We requested documentation from NGA, USACE, and DoD OGC related to NGA's compliance or noncompliance with the BRAC legislation. The documentation we received included BRAC proposals, Military Interdepartmental Purchase Requests, legal opinions, planning documents, and contracts and supporting documentation.
- We analyzed BRAC planning documents; NGA's business plans from May 2006 through NGA's last submission in October 2010; legal opinions from the General Counsel, NGA and DoD OGC; design and construction contracts for the NCE; contracts and statements of work related to NGA's Newington functions; and NGA's BRAC cost estimates and funding requests.

NGA Timeliness and Unresponsiveness

DoD policies implement the Inspector General Act of 1978, as amended, and mandate that the DoD Office of Inspector General (DoD OIG) have full and unrestricted access to information. DoD Instruction 7050.3, "Access to Records and Information by the Inspector General, Department of Defense," paragraphs 3.1 and 3.2, April 24, 2000, states that "to carry out its responsibilities, DoD OIG must have expeditious and unrestricted access to and, when required, be able to obtain copies of all records, reports, investigations, audits, reviews, documents, papers, recommendations, or other material available to or within any DoD component. No officer, employee, or service member of any DoD component may deny DoD OIG such access."

NGA personnel took an average of 28 days to provide responses to requests for documentation. NGA required in excess of 30 days to provide 26 responses to requests for documentation (23 percent of requested items). For 9 of these requests (8 percent of requested items), NGA required in excess of 100 days. The greatest number of days it took NGA to provide a response was 247 days.

In addition, on three occasions, we requested that NGA provide any funding requests that it had submitted to the Director of National Intelligence. NGA personnel denied the existence of documentation related to additional funding for their Newington site, only acknowledging the additional funding after we elevated our request to the Director, NGA.

Use of Computer-Processed Data

We did not rely on computer-processed data to perform this audit.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) has issued one report discussing National Geospatial-Intelligence Agency Base Realignment and Closure actions. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>.

GAO

GAO-12-709R, “Military Base Realignments and Closures: Updated Costs and Savings Estimates,” June 29, 2012

Under Secretary of Defense for Acquisition, Technology, and Logistics Comments

+



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

APR 11 2013

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL, DoD PAYMENTS AND ACCOUNTING OPERATIONS, DODOIG

THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS *YTB
4/12/13*

SUBJECT: Response to DoDIG Draft Report on National Geospatial-Intelligence Agency Did Not Comply With Base Realignment and Closure Legislation (Project No. D2011-D000DA-0208.000)

Thank you for the opportunity to provide comments on the findings and recommendations of the subject report.

As further explained below, the Department does not concur with the finding that NGA must relocate the Integrated Support Facility (ISF) from the Newington lease site to Fort Belvoir in order to comply with the BRAC Recommendation.

As the report correctly notes, in April 2010 the DoD Office of the General Counsel (OGC) issued a legal opinion concluding that NGA's plans to contract out the Integrated Test Facility (ITF), rather than relocate it to Fort Belvoir, was not in compliance with the BRAC recommendation. Specifically, that opinion considered whether the ITF was within the scope of the BRAC recommendation and concluded that because it was an NGA function, it fell within the scope of the BRAC recommendations direction to relocate all NGA functions. In response to that legal opinion, NGA modified its plan and, in September 2011, relocated the ITF to Fort Belvoir, in accordance with the legal opinion and as required by the BRAC recommendation.

The ISF, a contractor owned and operated activity that provides support to NGA, however, is something different. In a February 2012 legal opinion the NGA General Counsel considered whether the activities performed by the contractor BAE in space leased by BAE in one of the buildings at the Newington site were within the scope of BRAC Recommendation 168. Applying the analysis set out in the April 2010 DoD OGC legal opinion, the NGA General Counsel concluded that the activities performed by BAE are not within the scope of BRAC. In an email to the NGA General Counsel, the DoD OGC deferred to her conclusion that the work at issue was not an NGA function as described in the BRAC recommendation. That email reflected the judgment of the DoD OGC that the NGA General Counsel's legal opinion was fully consistent with the DoD OGC April 2010 legal opinion, and this remains the view of the DoD OGC. Because the recommendation only required NGA to relocate its functions, the NGA General Counsel appropriately concluded that the relocation of BAE's functions was outside the scope of the BRAC recommendation, and as such not legally required in order to complete the BRAC recommendation.

Accordingly the following is our response to the second recommendation contained in the report:

Recommendation 2:

We recommend that the Under Secretary of Defense for Acquisition, Technology, and Logistics monitor the National Geospatial-Intelligence Agency's plans to relocate functions remaining at National Geospatial-Intelligence Agency's Newington site to the Campus East, as required by Base Realignment and Closure legislation.

Response: Non-concur. Because the Department does not concur with the finding that the relocation of the ISF is required by the BRAC recommendation, it cannot concur with a recommendation to monitor NGA's relocation of the ISF "as required by Base Realignment and Closure legislation." NGA has completed implementation of BRAC Recommendation 168; there is no BRAC implementation left to monitor.

My point of contact is [REDACTED] at [REDACTED] or e-mail [REDACTED]



John Conger

Acting Deputy Under Secretary of Defense
(Installations and Environment)

National Geospatial - Intelligence Agency Comments

UNCLASSIFIED



NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

7500 GEOINT Drive
Springfield, Virginia 22150

APR 10 2013

U-2013-0722

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: National Geospatial-Intelligence Agency Response to Project No.
D2011-D000DA-0208.0000

1. Thank you for the opportunity to comment on the subject draft report.
2. The National Geospatial-Intelligence Agency (NGA) acted in good faith to comply with the provisions of the Base Realignment and Closure Act (BRAC), and we believe we have successfully done so. This multi-year, multi-billion dollar effort to relocate 8,500 personnel from 14 separate buildings at eight sites was largely completed by the deadline.
3. As with any initiative of this scale, there were adjustments and revisions to plans as the process unfolded.
4. In 2007, NGA submitted an updated plan for executing the BRAC requirements through the required reporting process. This plan would have left some functions in contractor-operated facilities. These facilities were among those originally directed to be consolidated at the new Ft. Belvoir facility. This recommendation was made because NGA lacked the authority to close the privately owned buildings, and because moving these functions was determined to pose a significant national security risk.
5. In May 2008, this plan was approved by the Deputy Under Secretary of Defense (Installations and Environment). NGA proceeded accordingly with its execution.
6. When advised of issues by the approving officials two years later, NGA developed and successfully implemented a corrective plan. These entities were moved by the BRAC deadlines. This did result in unanticipated costs, but the actions were managed frugally and with great care.
7. Despite our best efforts to comply, we acknowledge that we erred in allowing three of 36 entities to remain in one of the contracted facilities. When this error was brought to the attention of our Deputy Director on 31 January 2013, we immediately took action to rectify it. On 08 March 2013, we were able to notify your office that we had completed this process.
8. The subject draft report does not include a number of mitigating and clarifying facts, and, as a result, draws an overall conclusion that is not accurate. As a result, NGA does not agree with the draft report as written. Our specific concerns, as well as our response to the report's recommendations, are addressed in the two enclosures.

UNCLASSIFIED

UNCLASSIFIED

U-2013-0722

SUBJECT: National Geospatial-Intelligence Agency Response to Project No. D2011-D000DA-0208.0000

9. NGA is committed to both the sound management of federal resources and the obligation to accurately demonstrate to taxpayers how those resources are used. We will work in partnership with the DoD Inspector General to resolve any further issues related to NGA's consolidation at our current facility, and I would personally welcome the opportunity to address any concerns.

Letitia A. Long

Letitia A. Long
Director

Enclosures:

1. Clarification of Specific Points of Disagreement in DoD IG Report on NGA's Compliance with BRAC Requirements
2. Responses to Recommendations in the Draft Report from DoD IG Project No. D2011-D000DA-0208.0000

2

UNCLASSIFIED



NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

7500 GEOINT Drive
Springfield, Virginia 22150

Enclosure 1

Clarification of Specific Points of Disagreement in DoD IG Report on NGA's Compliance with BRAC Requirements

NGA does not agree with the overall conclusion of the Department of Defense Inspector General audit into its compliance with the requirements of Base Realignment and Closure legislation. Following are clarifications of the specific points in the draft report of the audit findings.

In addition, NGA respectfully requests revisions to the title of the report to be consistent with the nature of recent, similar DoD IG reports. NGA requests the DoD IG consider the following title, "National Geospatial-Intelligence Agency Efforts to Meet the Requirements of Base Realignment and Closure Legislation."

NGA also requests revision of the heading and introductory paragraph of the audit finding on page 4 to include more straightforward language. We propose the following heading: "NGA Made Errors in its Compliance with Base Realignment and Closure Legislation." Similarly, we request re-characterization of the expenditure of \$1.7 million as described at the end of the paragraph. For the reasons explained in Sections II and VI of this document, that statement is incorrect. If it must be included, we respectfully request that it be revised to read, "spent \$1.7 million."

NGA appreciates the DoD IG's consideration of this matter.

I. Introduction

The descriptions of the Newington functions are partially incorrect. The Integrated Test Facility (ITF) is a government-selected, government-operated and government-managed NGA operational mission function (testing) that operated in a Newington contractor-leased building prior to September 2011.

In distinct contrast, the Integrated Support Facility (ISF) is a contractor-selected, contractor-operated and contractor-managed function operating in a Newington contractor-leased facility.

The implications of the distinction are discussed in Section V.

II. Planning to Continue Newington Site Operations

Summary: NGA *did* move 33 of 36 entities that comprised the functions, people, and equipment of the Integrated Test Facility operations from the Newington building to the Ft. Belvoir facility by the BRAC deadline. Three remaining entities were moved in early

UNCLASSIFIED

UNCLASSIFIED

2013. NGA agrees that an error was made with respect to these, and upon notification of the error, took prompt corrective action.

In 2007, after reassessing mission risk, NGA leadership found that moving the Integrated Test Facility (ITF) would create unacceptable risk to the national security mission it supported. The significant factors in this determination were explained in a memorandum dated 21 August 2007 from NGA Director Vice Admiral Murrett to the Director of National Intelligence (DNI) and Under Secretary of Defense for Intelligence.

To avoid this risk, NGA developed an alternative plan for the ITF and the Newington buildings. This plan was briefed to and received informal concurrence from the Assistant Secretary of Defense (NII – C4ISR and IT Acquisition), the responsible office at that time before the function moved to USD(AT&L). Following that approval, the plan was submitted through the established BRAC reporting process, which NGA understood to include legal review, to secure approval. In addition, NGA highlighted and described the changes in its next business plan, filed September 2007. Similarly, NGA articulated the plan for the Newington buildings in a Coordination Sheet filed in February 2008. This stated:

Because NGA lacks authority to close the privately owned Newington buildings, coupled with continuity of operations concerns, NGA will move government employees to the Ft. Belvoir facility, terminate the leases for the buildings, and contract out the functions that occurred in the buildings while managing the functions from the Ft. Belvoir facility.

In a 07 May 2008 memorandum to the Secretary of the Army, the Deputy Under Secretary of Defense (Installations and Environment) approved this plan. Reasonably relying upon that approval, in December 2008, NGA began implementation.

It was not until two years later that NGA was informed that the plans for the ITF/Newington building did not comply with the BRAC mandate. This was more fully explained in an April 2010 legal opinion of the DoD Acting Deputy General Counsel. A corrective plan was filed 01 July 2010 and approved by the OSD Basing Director in a memo dated 14 July 2010.

To implement this corrective plan and recover from a two-year delay, the NGA Director requested \$24 million in National Intelligence Program FY 2012 budget funding from DNI Clapper. Because both the NGA Director and DNI Clapper (primarily from his tenure as the USD(I)) understood NGA's plan to have been approved, the need for a new action was not expected, and the funding request was thus characterized as an "unanticipated requirement."

NGA agrees that the three entities approved to remain in the ITF through September 2012 were improperly moved into the Integrated Support Facility (ISF). When this error was brought to the attention of NGA's Deputy Director on 31 January 2013, he immediately directed cessation of all three operations. On 08 March 2013, NGA notified the DoD IG by letter that this had been completed.

Revised "Integrated Support Facility Remains at Newington" Page 6-7

²
UNCLASSIFIED

UNCLASSIFIED

III. Modifying a Building Scheduled for Closure

While the draft report describes the actions taken with respect to the Newington site, it does not clearly indicate that the \$721,406 of renovation costs were planned prior to the BRAC legislation and incurred during the window in which NGA reasonably understood it had approval of its plan for the facility.

The report also indicates that NGA was "forced to stop" its renovation efforts. In fact, once NGA was informed of the disagreement with its 2008 business plan, all activity was rapidly and voluntarily stopped.

Finally, NGA was obligated to restore the building to its original condition under the terms of its contract. These restoration costs would have been incurred even if NGA had included moving these functions in the initial plan. It is incorrect to imply that \$1.7 million dollars in expenses were incurred because of the delay in incorporating these functions into the consolidation plans.

IV. Moving an Additional Function to the Newington Site

Deleted

Summary: *The move of the Reston 1 function into Newington was never intended to be anything but temporary and resulted in considerable net savings to the government.*

The draft report implies that NGA went forward with plans to relocate the Reston function to the Newington site despite DoD OGC and USD(AT&L) direction that continued operations at Newington did not comply with BRAC.

However, it does not explain that the move was temporary, and caused by the early departure from the NGA Reston facility. The conclusion, which implies that this temporary move was proof of an intent to continue operating the Newington site is incorrect for the following reasons:

The Reston function was added to the Integrated Test Facility (ITF) contract because of the commonality of engineering services that the contract provided. The building portion of the contract had nothing to do with the consolidation.

When the decision to move the Reston function to Newington was made, the space allocated for this function at the Ft. Belvoir facility (NCE) was not yet complete. The NCE construction project was enormous and complex. It included an extremely tight move schedule, with individual sections of the building being occupied while construction continued on the remainder. It was not possible to simply amend the construction timetable to allow for the early arrival of the Reston function.

The temporary move to Newington was made to allow for the early release of the Reston 1 building and **resulted in a savings to taxpayers of \$27 million**. Moreover, the decision to move the Reston 1 function to Newington, rather than to Reston 2 or 3, also saved taxpayer funds. Newington already possessed the networks required for the Reston 1 function to operate. A temporary move to Reston 2 or 3 would have involved

UNCLASSIFIED

installation of two networks costing significantly more than the \$6,443 used to temporarily move the function to Newington.

Because these operations moved to NCE before the BRAC deadline, NGA does not believe it violated any provision of the BRAC legislation.

The move of the Reston 1 function into Newington was never intended to be anything but temporary and resulted in considerable savings to the government at a minimal cost.

V. Relocating the Integrated Support Facility

Summary: *Based on thorough analysis of the functions and contract requirements associated with it, the NGA General Counsel determined that the ISF is not an NGA function, and therefore NGA was not required to move the ISF to the Ft. Belvoir facility (NCE) to comply with the BRAC mandate. The DoD counsel reviewed this opinion, and did not disagree.*

NGA has vacated and is in the process of rehabilitating buildings 8510, 8520, and the non-ISF portion of 8530. Therefore, NGA has fulfilled its responsibility to move all functions, personnel, and equipment to NCE from the Newington buildings.

The Integrated Test Facility (ITF) is a government-selected, government-operated and government-managed NGA operational mission function (testing) that (before September 2011) operated in a Newington contractor-leased building.

In distinct contrast, the Integrated Support Facility (ISF) is a contractor-selected, contractor-operated and contractor-managed function operating in a Newington contractor-leased facility. NGA contends that the ISF is not an NGA function subject to the BRAC mandate to move to the NCE.

The work conducted at the contractor ISF for NGA is done pursuant to completion contracts. A completion contract describes the contract scope of work by stating a definite goal or target and specifying an end product. This is distinguished from a level-of-effort contract, like the one supporting the ITF, which describes the work in general terms and obligates the contractor to devote a specified level of effort for a stated period of time. Under the ISF completion contract, NGA has no ability to affect the vendor's performance, select the site of the contract's work performance, or access the site.

Also unlike the ITF, the ISF does not involve "production support equipment." Moreover, the contractor chose to execute the contract in the space it leases and continues to do so. No NGA personnel or equipment occupy the Newington building, and NGA has no authority or control of the ISF site or the function being performed there.

Revised "Potential Monetary Benefits at the Newington Site"
Page 8

**4
UNCLASSIFIED**

UNCLASSIFIED

Accordingly, the NGA General Counsel determined that the ISF is not an NGA function, and therefore NGA was not required to move the ISF to NCE to comply with the BRAC mandate. Upon reviewing NGA's opinion with respect to the ISF, DoD counsel deferred and did not disagree.

NGA asserts that it has complied with the BRAC direction to move all functions from and "close" Newington buildings, even though the ISF occupies a portion of one building, for the reasons described above.

VI. Additional Costs to Close the Newington Site

As explained in section III of this document, the interim move of the Reston 1 function into the Integrated Test Facility (ITF) did not result in increased construction cost at the Ft. Belvoir Facility (NCE). The Reston 1 function was always slated for relocation to NCE and budgeted accordingly.

With respect to the discussions concerning lease payments, as stated above, cessation of operations at the ITF has been completed. The lease has been terminated, and there is no ongoing monthly cost. The final "walkaway cost" was approximately \$6.9 million. This cost is not a result of delayed planning to move the entities and functions at the ITF; these are costs associated with termination of the contract and closure of the facility.

As for the Integrated Support Facility (ISF), NGA reasserts its position that this is a contractor facility and function, and any money paid by NGA to the contractor attributed to the lease is in accordance with standard contract regulations.

Revised "Potential Monetary Benefits at the Newington Site"
Page 8

VII. Actions of Officials

NGA officials made every effort to ensure that its actions conformed with BRAC guidelines. NGA's 2008 business plan clearly laid out the agency's intentions with respect to the Newington facility and Integrated Test Facility (ITF), and NGA moved forward on that plan with a good faith understanding that it was in conformance with the legislative requirements.

VIII. NGA Timeliness and Unresponsiveness

Summary: *At no time did NGA intentionally withhold documents or delay submission. Some documentation had to be retrieved from archived records or requested from other agencies, which did result in longer response times. Further, because the task force that coordinated NGA's BRAC process had been disbanded, there was no longer a centralized function to address all BRAC-related queries. The longest response time was 209 days, but it should be noted that this was an exception to the norm.*

UNCLASSIFIED

The Appendix of the draft report discusses the timeframes in which NGA provided requested documentation and implies negative intent. The overall characterization is misleading.

Documents related to additional funding requests

At no time did NGA intentionally withhold relevant documents. Instead, as explained in a letter to the DoD IG on 29 February 2012, the NGA Chief Financial Executive simply did not associate the earlier requests for information related to National Intelligence Program funding.

NGA *should* have provided the DoD IG with the final document as part of its response to the earlier requests. However, this was a mistake based on a misunderstanding of the requests, not a deliberate attempt to withhold information.

Disbandment of the Program Management Office

Where delays did occur, they are largely attributable to the disbandment of the NGA Campus East (NCE) Program Management Office (PMO). The PMO was a task force created specifically to manage the extensive and complicated construction and relocation projects required to comply with the BRAC legislation. As planned when the PMO was created, by September 2011, the majority of this mission had been completed, and by November of that year, the members of the PMO had returned to their usual functions.

Location of Records

Finally, several DoD IG requests required documentation that had to be retrieved from archived records or requested from other agencies. This added significant time to NGA responses to the requests for information. In other instances, delays were caused because documentation was classified, and the team conducting the audit did not have access to NGA's classified e-mail system until mid-way through the audit. The material therefore had to be sent to a different DoD IG audit team, which had access to NGA's classified e-mail system.

IX. Conclusion

In the announcement letter of 28 June 2011, the DoD IG, stated that the objective of this audit was to determine whether NGA complied with Public Law 101-510, "Defense Base Closure and Realignment Act of 1990."

Although errors were made, and course corrections were required during the BRAC process, NGA believes it has complied with the provisions of this legislation.

For NGA, BRAC involved the consolidation of 14 separate buildings at eight sites and the transfer of more than eight thousand personnel. This was done in multiple phases,

UNCLASSIFIED

while the new facility was under construction. The total cost of this realignment was approximately \$2.4 billion.

During the entire effort, NGA acted in good faith to comply with the BRAC provisions. The agency was open and forthcoming about its plans, and immediately responsive when issues with the plans were identified two years into implementation. Throughout, NGA sought opportunities to reduce costs and minimize impact to the national security mission.

Characterizing the overall completion of NGA's move to NCE as anything other than a success that complied with the BRAC requirements disregards the many examples of cost savings and efficient implementation and discredits the diligent commitment to the sound management of federal resources that was evident throughout.

NGA hopes to work in partnership with the DoD Inspector General's office to resolve any further issues related to the BRAC initiative.

7
UNCLASSIFIED



UNCLASSIFIED

NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

7500 GEOINT Drive
Springfield, Virginia 22150

Enclosure 2

**Responses to Recommendations in the Draft Report from
Department of Defense Inspector General Project No. D2011-D000DA-0208.0000**

Regarding the recommendations made to NGA in the report, NGA submits the following:

Recommendation 1a: "Initiate negotiations with the contractor at the Newington site to ensure that the Base Realignment and Closure's statutory intent of eliminating excess physical capacity is met."

NGA Response: Nonconcur. It is NGA's legal opinion that what remains at Newington is not within NGA's legal authority to close.

Recommendation 1b: "Review the Base Realignment and Closure decisions made by National Geospatial-Intelligence Agency personnel and take administrative actions as appropriate."

NGA Response: Concur. NGA will review the decisions and take administrative action as appropriate.

UNCLASSIFIED



Inspector General Department *of* Defense